

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DONALD JAMES COON,

Plaintiff,

v.

**DONNA L. BENSON, Orange County Clerk,
et. al.,**

Defendants.

09 Civ. 230 (SCR)(LMS)

**MEMORANDUM ORDER
ADOPTING REPORT AND
RECOMMENDATION**

STEPHEN C. ROBINSON, United States District Judge:

Pro se petitioner Donald James Coon, filed a complaint seeking redress for various grievances arising out of a lawsuit filed in state court in Orange County, New York. On January 12, 2009, Judge Harold Baer, Jr. issued an Order dismissing Plaintiff's Complaint, and granting him sixty (60) days within which to file an Amended Complaint that meets the pleading requirements of Federal Rule of Civil Procedure 12(b)(6). Plaintiff filed an Amended Complaint on March 5, 2009. Defendants then filed two separate motions to dismiss the amended complaint. On September 9, 2009, Magistrate Judge Lisa Margaret Smith issued a Report and Recommendation ("R&R") recommending the dismissal of Plaintiff's Amended Complaint in its entirety. This Court must now consider whether to adopt, modify or reject the R&R in light of Plaintiff's Objections and Defendants' responses thereto.

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I. STANDARD OF REVIEW

In reviewing an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept an R&R to which no timely, actionable objection has been made, a district court need only satisfy itself that “there is no clear error on the face of the record.” *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted); *accord Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006); *see also Pizarro v. Bartlett*, 776 F. Supp. 815, 817 (S.D.N.Y. 1991) (court may accept report if it is “not facially erroneous”). Objections to an R&R “are to be specific and are to address only those portions of the proposed findings to which the party objects.” *Martinez v. Senkowski*, No. 02-CV-0009, 2008 WL 4501842, at *2 (S.D.N.Y. Sept. 29, 2008) (citing *Camardo v. General Motors Hourly-Rate Employees Pension Plan*, 806 F. Supp. 380, 381-82 (W.D.N.Y. 1992)). When specific objections are made, “the district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). However, when a party makes conclusory or general objections, or simply reiterates his original arguments, the Court reviews the R&R only for clear error. *Renelique v. Doe*, No. 99 Civ. 10425, 2003 WL 23023771, at *1 (S.D.N.Y. Dec. 29, 2003); *see also Pinkney v. Progressive Home Health Servs.*, No. 06-CV-5023, 2008 WL 2811816, at *1 (S.D.N.Y. July 21, 2008) (“even a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.”).

All of Plaintiff's objections to the R&R are repetitive of his original arguments, therefore this Court reviews the R&R for clear error only.

II. DISCUSSION

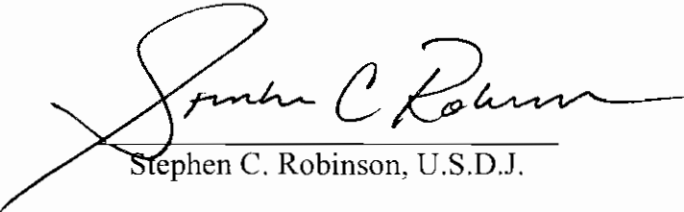
This Court has reviewed Magistrate Judge Smith's comprehensive and well-reasoned R&R and has determined that there is no clear legal error on the face of the record. Accordingly, the Court accepts Magistrate Judge Smith's R&R in its entirety and grants Defendants' motions to dismiss Plaintiff's Amended Complaint in its entirety.

The Clerk of the Court is directed to close the case and term any outstanding motions.

It is so ordered.

Dated: White Plains, New York

March 8, 2010


Stephen C. Robinson, U.S.D.J.